IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-9-2007

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.25003 of 2007

and
MP Nos.1 and 2 of 2007

V.N.M.Shahul Hameed .. Petitioner

vs

1.Special Commissioner and
Commissioner of Land Administration
Ezhilagam, Chepauk,
Chennai 600 005.
2.District Revenue Officer
Office of the District Revenue Officer
Ramanathapuram
3.Revenue Divisional Officer
Office of the Revenue Divisional Officer
Paramakudi
4.The Tahsildar
Kamudhi
5.V.M.Meera Pillai .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records relating to the impugned order passed by the first respondent in his proceedings K.Dis.K4/RP47/2004 (1529/2003) dated 2.7.2007 and quash the same as illegal.

For Petitioner : Mr.N.Kannan
For Respondents : Mr.N.Senthilkumar
Additional Government
Pleader for RR1 to 4
Mr.M.Md.Ibrahim Ali for R5

ORDER

Challenge is made to an order of the first respondent made in K.Dis.K4/RP47/2004 (1529/2003) dated 2.7.2007. The petitioner has brought forth this writ petition for a writ of certiorari.

2.The Court heard the learned Counsel on either side.

3.The case of the petitioner in short is that his father Mohammed Meera purchased the landed properties in Survey No.265/398 measuring about 0.01.0 hectare, and also in Survey No.265/400 measuring an extent of

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0.01.5 hectare, at Ahiramam Village, Kamudhi Taluk, under a registered sale deed dated 21.7.1938; that his father died in 1950; that there was an order of transfer of patta in respect of those lands, to the name of the fifth respondent by the concerned Tahsildar, Kamudhi, dated 30.11.1989; that the said order was challenged before the Revenue Divisional Officer (R.D.O.), Paramakudi, the third respondent herein, whereby an order came to be passed by the said authority making a modification in the order passed by the Tahsildar, to the effect that patta must be granted to the Correspondent of V.N.S. Middle School by deleting the name of the fifth respondent; that the said order was challenged before the District Revenue Officer (D.R.O.), Ramanathapuram, the second respondent herein, who by an order dated 4.12.2002, affirmed the order of the R.D.O.; that thereafter, the petitioner preferred a revision before the first respondent, the Special Commissioner and Commissioner of Land Administration; that the first respondent also affirmed the said order, and under the circumstances, this writ petition has been brought forth before this Court.

4.Advancing his arguments on behalf of the writ petitioner, the learned Counsel would submit that the property was purchased by Mr.Mohammed Meera, the father of the petitioner, by a registered sale deed of the year 1938; that the patta originally stood in his name; that there was a transfer of patta to the name of the fifth respondent by the Tahsildar, Kamudhi; that when the same was challenged before the R.D.O., he has passed an order of modification whereby the name of the fifth respondent was deleted; but the Correspondent of V.N.S. Middle School was found to be the person to whom the patta should be granted; that the said order was passed erroneously, since the property stood in the name of Mohammed Meera, and the petitioner herein is the son of the said Mohammed Meera; that while cancelling the patta in the name of the fifth respondent, the petitioner should have been the person in whose favour transfer should have been made, but not done so; that without considering the position both factual and legal, the D.R.O. and the Special Commissioner and Commissioner of Land Administration, the respondents 1 and 2 herein, have affirmed the order of the Revenue Divisional Officer, and hence, all the proceedings have got to be quashed by issuing the writ.

5.The learned Counsel for the fifth respondent would submit that the very reading of the sale deed dated 21.7.1938, under which the property was purchased by Mr.Mohammed Meera, the father of the petitioner, would clearly reveal that the property was purchased for V.N.S. Middle School; that therefore, it would be quite clear that Mohammed Meera was not the owner of the property; but, it was meant for the School; that in such circumstances, the Revenue Divisional Officer while cancelling the issuance of patta in favour of the fifth respondent, has made a modification that it should be granted in the name of the Correspondent, V.N.S. Middle School; that the said order has been affirmed rightly by the authorities above the R.D.O., who are the respondents 1 and 2 herein, and hence, the writ petition has got to be dismissed.

6.The Court paid its anxious consideration on the submissions made, and looked into the materials available. This Court is unable to notice any infirmity or illegality in the order under challenge. Under the circumstances, the writ petition has got to be dismissed. A reading of the sale deed dated 21.7.1938, which was much relied on by the petitioner,

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would clearly reveal that the property in question though purchased by Mr.Mohammed Meera, the father of the petitioner, it was purchased for the benefit of V.N.S. Middle School. Thus, it would be quite clear that when an order of transfer was made by the Tahsildar, Kamudhi, originally on 30.11.1989 granting patta in favour of the fifth respondent, it was found to be illegal and rightly set aside by the R.D.O. But, at the same time, no question of grant of patta in favour of the petitioner would arise. If allowed to grant patta in the name of the petitioner as per the request in this writ petition, it would be nothing but converting the property which was purchased for the benefit of the School, into a private property of the petitioner which cannot be done. Under the circumstances, the R.D.O., after going through the material and in particular, the sale deed in question, passed an order for grant of patta in the name of "Correspondent, V.N.S. Middle School" and rightly too.

7.Now, as far as the management of the School is concerned, it has got to be decided between the parties in a Court of civil law. As regards the property in question, the authorities below are perfectly correct in granting patta in the name of the Correspondent, V.N.S. Middle School. In such circumstances, this writ petition does not carry any merit whatsoever. Therefore, this writ petition fails, and the same is dismissed. No costs. Consequently, connected MPs are also dismissed.

nsv/

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To:

1.The Special Commissioner and
Commissioner of Land Administration
Ezhilagam, Chepauk,
Chennai 600 005.
2.The District Revenue Officer
Office of the District Revenue Officer
Ramanathapuram
3.The Revenue Divisional Officer
Office of the Revenue Divisional Officer
Paramakudi
4.The Tahsildar
Kamudhi
+ One cc to Mr. N. Kannan, Advocate SR 58367
+ One cc to Mr. M.Md. Ibrahim, Advocate sR 57739

TEJ (co)
sg 21/9/07

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